

REMARKS

The applicants respectfully request reconsideration and allowance of this application in view of the following remarks.

Initially, Applicants acknowledge with appreciation the Examiner's indication that claims 3-12 would be allowable if rewritten in independent form and that claims 19-33 are allowed.

A Form PTO 1449 was filed on February 15, 2007. Applicants acknowledge receiving an initialed copy of the Form PTO 1449. However, not all items were initialed therein. Specifically, the item described as the Notice of Reason for Refusal from Japanese Patent Office issued on December 26, 2006 for the corresponding Japanese patent application, No. 2003-073900, remains un-initialed. **The applicants respectfully request that the Examiner consider the item and return another copy of the Form PTO 1449 on which the item is initialed.**

Claims 1, 2, 13 and 14 were rejected under 35 USC 102(e) as being anticipated by Nishiwaki et al. (U.S. Publication No. 2006/0164204; hereinafter Nishiwaki). This rejection is respectfully traversed.

Nishiwaki was filed with the Japanese Patent Office as a PCT application on September 12, 2003, and with the United State Patent and Trademark Office as a 35 USC §371 National Stage application on March 9, 2005. The PCT application was published on March 25, 2004 as WO/2004/025745 (copy of front page attached as Appendix A) by the World Intellectual Property Organization (WIPO). See Arrow 1 in Appendix A. However, it is noted that the application was published in Japanese. See Arrow 2 in Appendix A. Therefore, the Examiner's 102(e) rejection based on Nishiwaki is improper because a national stage of a PCT application

published in a language other than English has no 102(e) date. See MPEP 706.02 (f)(1), Example 5 (Rev. 5. Aug. 2006).

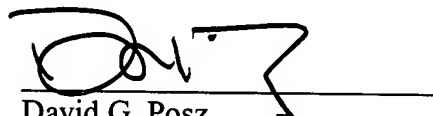
Additionally, it is also noted that the PCT publication date of Nishiwaki (March 25, 2004) is later than the US filing date of the present application (November 21, 2003). Therefore, Nishiwaki also fails to qualify as prior art under 35 USC §102(a).

Accordingly, Applicants respectfully request that the rejection with respect to claim 1 be withdrawn. Claims 2, 13, and 14 depend from claim 1 directly or indirectly. Applicants respectfully note that claim 2, 13, and 14 are allowable at least for the reasons given above with respect to claim 1. Further, remaining claims 3-12, which were indicated allowable by the Examiner, are also in condition for allowance as each claim ultimately depends from claim 1.

In view of the foregoing, the applicants submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

Respectfully submitted,


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(WO/2004/025745) MAGNETORESISTANCE EFFECT ELEMENT AND PRODUCTION METHOD AND APPLICATION METHOD THEREFOR

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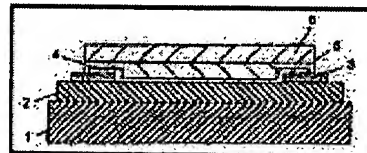
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2002-268542 13.09.2002 JP

Title: MAGNETORESISTANCE EFFECT ELEMENT AND PRODUCTION METHOD AND APPLICATION METHOD THEREFOR

Abstract: A magnetoresistance effect element comprising a metal artificial lattice film (4) consisting of at least two layers of magnetic thin film and metal non-magnetic thin film alternately laminated on part of a substrate (1) and being formed into a specified pattern, a first protection film (5) formed to cover the metal artificial lattice film (4), and a second protection film (6) formed on the first protection film (5), wherein the first protection film (5) has a residual stress of practically zero, and the second protection film (6) consists of a material having a moisture permeation preventing power. Accordingly, the magnetoresistance effect element is free from hysteresis even in a high-temperature condition, small in characteristics deterioration, and excellent in heat resistance and corrosion resistance, and is applicable even in a rigorous environment such as an automobile.



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